

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 47 Firesafety Devices
SPONSOR(S): Hooper
TIED BILLS: **IDEN./SIM. BILLS:** SB 264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Vanlandingham	Cooper
2) Business & Professional Regulation Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

When working properly, smoke alarms reduce the risk of death in a fire by 50-75 percent, and 95 percent of all homes have at least one smoke alarm. However, studies show that the alarms in up to a fifth of homes are not working, and these homes account for a disproportionate share of fire deaths.

The primary reason why smoke alarms fail is a missing, disconnected, or dead battery. In reported home fires in which battery-operated smoke alarms were present but failed to sound, 87 percent of these alarms had batteries that were missing, disconnected, or dead.

To reduce the incidence of battery failure in smoke alarms, HB 47 requires the gradual adoption of tamper-resistant smoke alarms powered by a nonremovable lithium "long life" battery designed to last for 10 years. In jurisdictions that have adopted similar measures, data indicate a significant decline in alarm failures.

The bill does not require existing smoke alarms to be immediately replaced. Instead, the provision applies to new installations and applies when existing smoke alarms are replaced. Manufacturer comments generally indicate that smoke alarms should be replaced every 10 years.

HB 47 does not apply to new construction, because it exempts any smoke alarm or fire alarm system that is electrically wired or connects to a panel. Current residential building codes already require smoke alarms to be wired to commercial power.

It is uncertain how quickly the new model smoke alarms would be installed, because the bill does not call for any new inspections, and single-family and duplex homes do not typically receive fire inspections. However, public, commercial, and multi-family apartment buildings are regularly inspected, and to the extent these buildings do not already meet the new standard, they would have to when replacing existing smoke alarms.

The fiscal impact of the bill is indeterminate but likely is minimal. For public facilities or buildings that would be required to replace smoke alarms with new models, there would be an associated cost. However, this cost would be defrayed over the life of the alarm because fewer batteries would have to be purchased, and any labor cost associated with such battery replacement would be eliminated.

Consumers who switch to a 10-year smoke alarm may actually save money over the life of the alarm, because 9-volt alarm batteries retail for two or three dollars and should be replaced at least once per year.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background on Fire Safety

Home fires kill an average of 2,650 civilians a year in the United States and injure 12,890 more.¹ A disproportionate share of fire deaths occur in homes without working smoke alarms. While only 37 percent of reported home fires occur where is no working smoke alarm, such fires account for nearly two thirds (62 percent) of all home fire deaths.

In contrast, homes with working smoke alarms have a significantly reduced risk of fire death. Between 2005 and 2009, the risk of fire death in a home with a working smoke alarm was 50 to 75 percent lower than the risk of fire death in homes that had no working smoke alarm.

Ninety-five percent of all homes have at least one smoke alarm. However, studies show that the alarms in up to a fifth of these homes are not working. The primary reason why smoke alarms fail is a missing, disconnected, or dead battery. In reported home fires in which battery-operated smoke alarms were present but failed to sound, more than half (59 percent) of the alarms had missing or disconnected batteries. Moreover, in an additional 28 percent of these alarms failures, the batteries were dead.

Smoke alarms powered by nonremovable lithium “long life” batteries

Traditional smoke alarms powered by 9-volt batteries can easily be disabled when someone removes or fails to replace its battery. However, new model smoke alarms are powered by nonremovable lithium “long life” batteries that are sealed into the housing of the alarm, making them tamper-resistant and addressing the issue of disablement and failed maintenance by consumers. In addition, the batteries are designed to last for 10 years, consistent with the national smoke alarm standard requiring all smoke alarms be replaced after 10 years of operation.²

In the past several years, several jurisdictions have adopted measures to require these new model smoke alarms in certain properties, including the states of California, Louisiana, Michigan, North Carolina, and Oregon, and the cities of Philadelphia, Pennsylvania, and Madison and Milwaukee, Wisconsin.

In 1999, the State of Oregon adopted a requirement that all solely battery powered smoke alarms sold in the State must have 10-year life batteries. Preliminary Oregon State Fire Marshal data suggest that since these requirements went into effect, there has been a 37 percent decline in alarm failures due to dead or missing batteries.³

Effect of HB 47

HB 47 amends s. 633.025, F.S., to require that any battery operated smoke detector installed on or after January 1, 2014, contain a built-in battery capable of powering the smoke detector for at least 10 years. The bill does not require existing smoke alarms to be immediately replaced. Instead, the provision applies to new installations and applies when an existing smoke alarm is replaced. Manufacturer comments generally indicate that smoke alarms should be replaced every 10 years.

The legislation excludes and does not apply to any electrically operated smoke alarm, a fire alarm system with a smoke detector, a fire alarm device that connects to a panel, or any similar device that uses a low-power radio frequency wireless communication signal.

¹ Fire Safety data from National Fire Protection Association, “Smoke Alarms in U.S. Home Fires,” September 2011.

² National Fire Alarm Code, NFPA 72.

³ California State Fire Marshal, Smoke Alarm Task Force Final Report Analysis and Recommendations, August 2011.

This means that the bill does not apply to most new construction, because the current Florida Building Code already requires that “smoke alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source.”⁴

The requirements of HB 47 would raise Florida’s minimum firesafety standards. Current law enables local authorities, including a municipality, county, or special district with firesafety responsibilities, to adopt standards that are more stringent.⁵

Enforcement issues

It is uncertain how rigorously the bill’s new requirement would be enforced or how quickly the new model smoke alarms would be adopted. HB 47 does not mandate any new inspections, nor does it prohibit the sale of old-model smoke alarms operated by 9-volt batteries.

Currently, existing single-family and duplex homes are not inspected by any state or local authority, unless those homes are being substantially renovated. Such homeowners are generally left to self-comply with applicable firesafety regulations.

In contrast, public, commercial, and multi-family apartment buildings are regularly inspected. The Bureau of Fire Prevention, Division of State Fire Marshall, conducts annual inspections of more than 14,000 state owned buildings and facilities. Counties, cities and local fire marshalls and inspectors (collectively known as Authorities Having Jurisdiction, or AHJs) conduct regular inspections of commercial properties and multi-family apartment buildings.

Cost issues

Tamper-resistant smoke alarms operated by 10-year batteries bear a higher up-front cost than smoke alarms operated by 9-volt batteries, but this difference diminishes over the life of the alarm. Sealed 10-year lithium battery-operated smoke alarms retail for about \$20, while an ionization smoke alarm with a 9-volt battery retails on average for \$10-12.

Consumers who do not have to purchase batteries for the 10-year smoke alarm may actually save money over the life of the alarm.⁶ Fire safety officials encourage homeowners to change their alarm’s batteries at least once per year,⁷ and 9-volt batteries retail for two or three dollars.

In light of these facts, it appears that the only way a consumer could save money using a smoke alarm powered by 9-volt batteries over the life of the alarm is if they failed to replace their batteries as recommended. Such failed maintenance increases the likelihood that the smoke alarm will fail to operate, providing the impetus for this legislation.

B. SECTION DIRECTORY:

Section 1: Amends s. 633.025, F.S., requiring certain battery-operated smoke alarms to meet specified standards.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁴ R314.4, 2010 Florida Building Code, Residential, effective March 15, 2012 to current.

⁵ Section 633.025(4), F.S.

⁶ National Association of State Fire Marshals, Science Advisory Committee, Recommendation on Updates to the NASFM Smoke Alarm Guidance Document Regarding the Use of 10-Year Long-Life Batteries, April 2012.

⁷ Federal Emergency Management Agency, “Learn About Smoke Alarms,” November 2011.

None.

2. Expenditures:

Indeterminate, but likely minimal. The bill does not require any new inspections.

Per Florida's fire safety and building codes, many state buildings already have fire safety systems that are wired to power or otherwise meet standards that are more stringent than those called for by the bill, and thus are exempted.

For those state facilities or buildings that do use battery operated smoke alarms and would be required to install 10-year smoke alarms, there would be an associated cost. However, this cost would be defrayed over the life of the alarm because fewer batteries would have to be purchased. Any labor cost associated with such battery replacement would also be eliminated.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate, but likely minimal. HB 47 does not require any new inspections.

Per Florida's fire safety and building codes, many public buildings already have fire safety systems that are wired to power or otherwise meet standards that are more stringent than those called for by the bill, and thus are exempted.

For those public facilities or buildings that do use battery operated smoke alarms and would be required to install 10-year smoke alarms, there would be an associated cost. However, this cost would be defrayed over the life of the alarm because fewer batteries would have to be purchased. Any labor cost associated with such battery replacement would also be eliminated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Tamper-resistant smoke alarms operated by 10-year batteries bear a higher up-front cost than smoke alarms operated by 9-volt batteries, but this difference diminishes over the life of the alarm. Sealed 10-year lithium battery-operated smoke alarms retail for about \$20, while an ionization smoke alarm with a 9-volt battery retails on average for \$10-12.

However, fire safety officials encourage homeowners to change their alarm's batteries at least once per year, and 9-volt batteries retail for two or three dollars. Thus, consumers who do not have to purchase batteries for the 10-year smoke alarm can actually save money over the life of the alarm.⁸ Any labor cost associated with such battery replacement would also be eliminated.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁸ National Association of State Fire Marshals, Science Advisory Committee, Recommendation on Updates to the NASFM Smoke Alarm Guidance Document Regarding the Use of 10-Year Long-Life Batteries, April 2012.

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is possible that a court may find the bill creates a potential ambiguity in s. 633.025, F.S., that may jeopardize the bill's applicability to one-family and two-family dwellings.

Current s. 633.025(9), F.S., which under HB 47 would become s. 633.025(10), F.S., states that "The provisions of the Life Safety Code shall not apply to newly constructed one-family and two-family dwellings." The Life Safety Code is part of the Florida Fire Prevention Code, which provides Florida's minimum fire safety standards.

Section 633.0215, F.S., entitled "Florida Fire Prevention Code," directs the state Fire Marshall to adopt the National Fire Protection Association's Standard 1, Fire Prevention Code" and "the Life Safety Code, Pamphlet 101," by reference into the Florida Fire Prevention Code. These codes are amended with Florida-specific amendments, including those mandated by statutes, such as current s. 633.025(9), F.S., which conflict with applicable provisions of the code.

If the language of the bill is incorporated into the Life Safety Code, its applicability may be affected by current s. 633.025(9), F.S., which states that the Life Safety Code is inapplicable to single-family and two-family dwellings.

For this reason, it is possible that a court may see the statutory provisions of HB 47 and current s. 633.025(9), F.S., as conflicting. Reading the provisions together, a court might infer that the Legislature intended that to the extent HB 47 amends provisions of the Life Safety Code, those provisions are inapplicable as to one-family and two-family dwellings.

The sponsor has indicated that he intends for HB 47 to apply to one-family and two-family dwellings.

To effectuate that intent, potential ambiguity could be resolved by clarifying that HB 47 is intended to apply to one-family and two-family dwellings notwithstanding the provisions of current s. 633.025(9), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES